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FACTOL, NICHOLAS C				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/817,226

**Applicant(s)**

BIE ET AL.

**Examiner**

Nicholas C. Pachol

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date 04/02/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: The terms "soft ware and hard ware" are referred to throughout the application. The terms should be corrected to read as *software and hardware*.

Appropriate correction is required.

### *Claim Objections*

2. Claims 13 and 15 are objected to because of the following informalities: Claims 13 and 15 are written as independent claims but appear to be dependent off of 12 and 15 respectively. The examiner will treat claims 13 and 15 as being dependent off of 12 and 14 respectively. Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12 and 13 claim "a computer program comprising computer program code adapted to perform the method..." However, the claims do not define a computer program to be a functional descriptive material encoded on a memory/disk/computer-readable medium, and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most

cases since use of technology permits the function of the descriptive material to be realized"). Moreover, a "program" is neither a process ("action"), nor machine, nor manufacture, nor composition of matter (i.e., tangible "thing") and therefore non-statutory.

Such claimed "program" (software) does not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. Moreover, claims 14 and 15 claims "a computer readable medium comprising program code adapted to carry out the method ..." As such, "program"/software, not claimed as embodied/encoded in computer-readable medium and is not statutory because the "program"/software is not capable of causing functional change in the computer. Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory and appears to be one type of claim that is considered nonstatutory, under the present USPTO Interim Guidelines, 1300 Official Gazette Patent and Trademark Office 142 (Nov. 22, 2005).

The Examiner suggests amending the claim to include the disclosed tangible computer readable media, while at the same time excluding the intangible media such as signals, carrier waves, etc...

Any amendment to the claim should be commensurate with its corresponding disclosure.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12-15, in lines 2, contain the limitation/term "adapted to." It is unclear what the metes and bounds are of such a term. Furthermore, the specification does not describe the term in sufficient detail to enable such a determination. Further clarification is required.

The following art rejection is applied to the claims as best understood in view of the 112 2<sup>nd</sup> paragraph rejection.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 5, and 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensen (US 6,411,314) in view of Giles (US 5,850,339).

Regarding Claim 1, Hansen teaches a job control system (Column 2, lines 31-32) for controlling a job in a document processing system in which processing system a number of tasks is performed in a workflow (Column 2, lines 32-46), the job control system comprising an input source with a user interface for enabling a user to define and change a set of parameters selected from the group of first parameters for said workflow and second parameters within said workflow (Column 9, lines 3-22), wherein the job control system comprises:

- an identifier to identify and mark dependencies of results of said job to parameters (Column 10, lines 22-28), wherein said results are selected from the group of intermediate results of said job and final results of said job (Column 10, lines 28-39), and wherein said parameters are selected from the group of parameters for said workflow, parameters within said workflow, and parameters for individual task processors in a production plan defining processing of said job (Column 10, lines 40-56),

- a verifier (Column 18, lines 57-62) to verify, during job execution, a change in a particular parameter out of said parameters (Column 18, lines 62-67).

Hansen does not teach a verifier to determine if (a) a particular result out of said results and obtained before said change in said particular parameter is independent of said particular parameter, or (b) if an effect of said change in said particular parameter on said particular result is within a given limit; so that said particular result is still useable despite said change in said particular parameter; and

storing still useable results on memory.

However, Giles does teach the verifier to determine if (a) a particular result out of said results and obtained before said change in said particular parameter is independent of said particular parameter (Column 5, lines 49-65), or (b) if an effect of said change in said particular parameter on said particular result is within a given limit; so that said particular result is still useable despite said change in said particular parameter (Column 5, lines 32-44); and

- storing still useable results on memory (Column 6, lines 35-50).

Therefore it would have been obvious at the time the invention was made to combine the teachings of Hensen with the teachings of Giles to be able to have a program that is less sensitive to errors in the data set (Giles: Column 3, lines 5-6).

Regarding Claim 2, Hensen further teaches wherein said results include a specific result provided by a specific task processor (Column 6, lines 39-56) and wherein said identifier forms part of said specific task processor (Column 6, lines 39-56).

Regarding Claim 5, Hensen further teaches further comprising a controller for changing a job ticket for processing a particular job by said document processing system after said change in said particular parameter (Column 6, lines 31-47), wherein said changing said job ticket is for using said stored still useable results, and for

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automatically resubmitting said particular job to said document processing system (Column 12, lines 35-40).

Regarding Claim 8, Hensen further teaches further comprising a display device to display to a user said useable results (Column 2, lines 32-49).

Regarding Claim 9, Hensen further teaches wherein said display device is for displaying said dependencies to parameters of said useable results (Column 18, lines 22-39, since the operator is performing the task, then it must be displayed to the operator).

Regarding Claim 10, Hensen teaches a method (Column 2, lines 50-51) for controlling a job in a document processing system in which processing system a number of tasks is performed in a workflow (Column 2, lines 51-60), characterized in that the method comprises:

-identifying and marking dependencies of results of said job to parameters (Column 10, lines 22-28), wherein said results are selected from the group of intermediate results of said job and final results of said job (Column 10, lines 28-39), and wherein said parameters are selected from the group of parameters for said workflow, parameters within said workflow, and parameters for individual task processors in a production plan defining processing of said job (Column 10, lines 40-56);



-verifying, during job execution, a change in a particular parameter out of said parameters (Column 18, lines 62-67).

Hensen does not teach verifying and determining if (a) a particular result out of said results and obtained before said change in said particular parameter is independent of said particular parameter, or (b) if an effect of said change in said particular parameter on said particular result is within a given limit; so that said particular result is still useable despite said change in said particular parameter; and  
-storing still useable results.

However, Giles does teach verifying and determining if (a) a particular result out of said results and obtained before said change in said particular parameter is independent of said particular parameter (Column 5, lines 49-65), or (b) if an effect of said change in said particular parameter on said particular result is within a given limit; so that said particular result is still useable despite said change in said particular parameter (Column 5, lines 32-44); and

-storing the still useable results (Column 6, lines 35-50).

Therefore it would have been obvious at the time the invention was made to combine the teachings of Hensen with the teachings of Giles to be able to have a program that is less sensitive to errors in the data set (Giles: Column 3, lines 5-6).

Regarding Claim 11, Hensen further teaches further comprising:

-changing a job ticket for processing a particular job by said document processing system after said change in said particular parameter, wherein said

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changing said job ticket is for using said stored still useable results (Column 12, lines 35-40);

-automatically resubmitting said particular job to said document processing system (Column 11, lines 37-44).

Regarding Claim 12, in light of the method in claim 10, Hensen further teaches a computer program comprising computer program code (Column 8, lines 58-61) adapted to perform the method according to claim 10 when said program is run on a computer (Column 12, lines 57-65).

Regarding Claim 13, in light of the method in claim 11, Hensen further teaches a computer program comprising computer program code (Column 8, lines 58-61) adapted to perform the method according to claim 10 when said program is run on a computer (Column 12, lines 57-65).

Regarding Claim 14, in light of the method in claim 10, Hensen further teaches a computer readable medium comprising program code (Column 8, lines 58-61, where the computer program must be stored on computer readable medium) adapted to perform the method according to claim 10 when said program is run on a computer (Column 12, lines 57-65).

Regarding Claim 15, in light of the method in claim 11, Hensen further teaches a computer readable medium comprising program code (Column 8, lines 58-61, where the computer program must be stored on computer readable medium) adapted to perform the method according to claim 11 when said program is run on a computer (Column 12, lines 57-65).

8. Claims 3, 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensen (US 6,411,314) in view of Giles (US 5,850,339) further in view of Shakespeare (US 6,421,575).

Regarding Claim 3, Hensen in view of Giles does not teach wherein said verifier includes:

- a calculator for calculating said effect of said change in said particular parameter on said particular result;
- a comparator for comparing said effect to said given limit.

However, Shakespeare does teach wherein said verifier includes:

- a calculator for calculating said effect of said change in said particular parameter on said particular result (Column 6, lines 55-60);
- a comparator for comparing said effect to said given limit (Figure 3, element 106 and Column 5, lines 45-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hensen in view of Giles with

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Shakespeare to have a controller that tolerates errors well and performs well with errors (Shakespeare: Column 2, lines 30-33).

Regarding Claim 4, Hensen in view of Giles does not teach wherein said verifier includes:

- an estimator for estimating said effect of said change in said particular parameter on said particular result;

- a comparator for comparing said effect to said given limit.

However, Shakespeare does teach wherein said verifier includes:

- an estimator for estimating said effect of said change in said particular parameter on said particular result (Column 10, lines 12-28, where the sampling is a form of estimating);

- a comparator for comparing said effect to said given limit (Figure 3, element 106 and Column 5, lines 45-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hensen in view of Giles with Shakespeare to have a controller that tolerates errors well and performs well with errors (Shakespeare: Column 2, lines 30-33).

Regarding Claim 6, Hensen further teaches further comprising a controller for changing a job ticket for processing a particular job by said document processing system after said change in said particular parameter (Column 6, lines 31-47), wherein

said changing said job ticket is for using said stored still useable results, and for automatically resubmitting said particular job to said document processing system (Column 12, lines 35-40).

Regarding Claim 7, Hensen further teaches further comprising a controller for changing a job ticket for processing a particular job by said document processing system after said change in said particular parameter (Column 6, lines 31-47), wherein said changing said job ticket is for using said stored still useable results, and for automatically resubmitting said particular job to said document processing system (Column 12, lines 35-40).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas C. Pachol whose telephone number is 571-270-3433. The examiner can normally be reached on M-T, 7:00 a.m.-5:30 p.m. (EST), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

N.P.

01/04/08

/Hai Tran/  
Supervisory Patent Examiner, Art Unit 4178